

REMARKS

In the Office Action mailed February 11, 2009 the Office noted that claims 11-25 were pending and rejected claims 11-25. Claims 11, 15-18 and 22-25 have been amended, claims 12-14 and 19-21 have been canceled, and, thus, in view of the foregoing claims 11, 15-18 and 22-25 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections and objections are traversed below.

REJECTIONS under 35 U.S.C. § 101

Claims 18-24 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In particular, the Office asserts that the claims do not comply with the machine or transformation test. The Applicant has amended claim 18 to further recite "guiding via a navigation apparatus a route to a destination." The Applicant submits that the claims as now written is tied to a navigation apparatus, a machine and guiding someone to a destination is useful, concrete and tangible.

Withdrawal of the rejection is respectfully requested.

REJECTIONS under 35 U.S.C. § 112

Claims 17 and 24 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. The Office asserts that one of ordinary skill

could not relate a value to a threshold. The Applicant respectfully disagrees. Merriam-Webster's online dictionary states

Main Entry:

thresh·old

1: the plank, stone, or piece of timber that lies under a door : sill 2 a: gate, door b (1): end, boundary ; *specifically* : the end of a runway

(2): the place **or point** of entering or beginning : outset <on the *threshold* of a new age>

3 a: the point at which a physiological or psychological effect begins to be produced <has a high *threshold* for pain> **b: a level, point, or value above which something is true or will take place** and below which it is not or will not [Emphasis added]

As Webster's defines a threshold as **a value** above which something is true, it naturally follows that one of ordinary skill in the area of computer science would understand that a threshold is a value and vice versa and from the Specification understand that they are predetermined.

Further MPEP § 2163 states "If a skilled artisan would have understood the inventor to be in possession of the claimed invention at the time of filing, even if every nuance of the claims is not explicitly described in the specification, then the adequate description requirement is met. See, e.g., *Vas-Cath*, 935 F.2d at 1563, 19 USPQ2d at 1116; *Martin v. Johnson*, 454 F.2d 746, 751, 172 USPQ 391, 395 (CCPA 1972) (stating "**the description need not be in *ipsis verbis* [i.e., 'in the same words']** to be sufficient"). [Emphasis added] The Applicant submits that while

the same words (i.e. *ipsis verbis*) are not used, the Specification is sufficient to enable the claims.

Claims 12, 14, 19 and 21 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular, the Office asserts that the claims use unclear phrases. The claims have been cancelled.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 102

Claims 11-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Endo, U.S. Patent No. 5,902,349. The Applicant respectfully disagrees and traverses the rejection with an argument and amendment.

The Applicant has amended claim 11 to include the features of claims 13 and 14. The Applicant submits that no new matter is believed to have been added by the amendment of the claims.

Claim 11 now further recites "a route judging unit configured to judge that the first planned route point is not to be passed when a first distance history in the form of a plurality of the first distances calculated before the moving object reaches the first planned route point shows that the first distance is an increasing trend and a second distance history in

the form of a plurality of the second distances calculated before the moving object reaches the first planned route point shows that the second distance is a decreasing trend," where "the first distance being a distance from a deviated point to a first planned route point, the second distance being a linear distance from the deviated point to a second planned route point."

On pages 5 and 6 of the Office Action, with respect to claim 13, the Office asserts that the first and second distances of claim 11 correspond to the distances D1. In addition, at section 16, the Office asserts that the route judging unit "determines which route points to pass and not pass when a distance is an increasing trend compared to distance to distance to other planned route points."

However, Endo col. 13, line 85 through col. 14, line 15 states:

the guide route control processor 31 calculates rectilinear distances D1 from the vehicle position Pc to all of the nodes (each being indicated by an "X") on the guide route NVRT which have not been passed by the vehicle as yet and route distances D2 from the nodes to the destination DSP along the guide route NVRT as shown in FIG. 10. Then, sums D of modified or corrected distances  $\alpha \cdot D1$  and  $\beta \cdot D2$  are calculated using the following equation (5):  $D = \alpha \cdot D1 + \beta \cdot D2$  ... a node whose sum D of modified distances exhibits the lowest value is determined as a return point.

Endo col. 14, lines 63-66 states "a node at which the value of D exhibits a change from decrease to increase with respect to the value of D at the immediately preceding node is determined as a return point."

As can be seen, the returning point is determined based on both distances D1 and D2. Without D2, Endo cannot determine a return point. If the return point could be determined only with D1, the martial features of the invention of Endo would have to be changed.

Further, distance  $D (= \alpha \cdot D1 + \beta \cdot D2)$  exhibiting the lowest value or exhibiting a change from decrease to increase does not show that the distances D1 and D2 are an increasing or decreasing trend.

As indicated above, a route judging unit of claim 11 is "configured to judge that the first planned route point is not to be passed when a first distance history ... shows that the first distance is an increasing trend a second distance history ... shows that the second distance is a decreasing trend."

Claims 18 and 25 have been amended in a manner consistent with claim 11. For at least the reasons discussed above, claims 11, 18 and 25 and the claims dependent therefrom are not anticipated by Endo.

Withdrawal of the rejection is respectfully requested.

#### SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 101, 112 and 102. It is also submitted that claims 11, 15-18 and 22-25 continue to be allowable. It is further submitted that the claims are not

taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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